IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.214 of 1991
DATE OF DECISION: 14.3.2007.
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Mohinder Kaur

..PETITIONER

VS.

State of Punjab.

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE ARVIND KUMAR,

Present:- Mr. B.S. Sehgal, Advocate with
Mr. Rajesh Sehgal, Advocate
for the petitioner.

Mr. J.S. Dhillon, Sr. DAG Punjab.
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The husband of the petitioner namely Gopal Singh alias Kirpal Singh was a freedom fighter. The prosecution against her was launched for committing an offence under Section 420 IPC vide FIR No.90 dated 14.6.1988 on the broad allegations that, from period 1972 to 1987 she cheated the State Exchequer for an amount of Rs.34,954.85 ps. by taking family pension being widow of Gopal Singh, for that period, irrespective of the fact that she has re-married to brother of her deceased husband.

The learned trial court vide judgment dated 1.12.1990 convicted her under Section 420 IPC and sentenced to undergo rigorous imprisonment for one year with a fine of Rs.1000/- and in default thereof, rigorous imprisonment for further three months was awarded.

On appeal, preferred by the petitioner, the learned Addl. Sessions Judge, Ludhiana, vide judgment dated 9.3.1991 uphold the conviction, but modified the sentence of imprisonment and ordered her release on probation for a period of three years on furnishing personal bonds in the sum of Rs.3000/- with one surety of the like amount, by 13.3.1991. She was further required to give undertaking to receive the punishment as and when directed by the Court and to keep peace and good behaviour, during the period of probation. The lower appellate court also converted the fine of Rs.1000/- imposed upon her, to as expenses of proceedings to be

paid to Punjab State.

What emerges out from the record is that the petitioner failed to comply with the orders of lower appellate court by the stipulated date and even thereafter, hence the lower appellate court, finding no other alternative, vide order dated 16.3.1991, sentenced her to undergo rigorous imprisonment for six months and to pay a fine of Rs.1000/- under Section 420 IPC and in default thereof further rigorous imprisonment for two months was awarded.

Dissatisfied with the same, the petitioner has preferred the instant revision.

I have heard learned counsel for the parties and have gone through the papers-book carefully.

Learned counsel for the petitioner has contended that, as per Pension Rules, if a widow re-marries her husband's brother, she is still eligible for the grant of family pension. However, he has not touched the merits of the revision and has confined his arguments only qua the relief of grant of probation to the petitioner. The learned State counsel does not have any serious ground to oppose the relief. On due consideration, there is no legal impediment in allowing such prayer of the petitioner, who is stated to be in her late eighties and is undergoing the agony for the last more than 18 years, as the present case relates to the year 1988. Thus, taking into account the totality of circumstances, present petition is allowed and the sentence awarded to her by the lower appellate court is modified to the extent that the petitioner be released on probation for a period of six months on her furnishing personal bond in the sum of Rs.500/- with one surety of the like amount to the satisfaction of Chief Judicial Magistrate, Ludhiana, which she shall furnish within a period of 45 days from today. The other conditions, as enumerated above, in the judgment of lower appellate Court dated 9.3.1991 shall remain the same.

With the above modifications, the present revision stands disposed of.

(ARVIND KUMAR)
JUDGE

March 14,2007
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